



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 14-02135

**Appearances**

For Government: Jeff A. Nagel, Department Counsel

For Applicant: *Pro se*

January 22, 2015

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**Decision**

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LOKEY ANDERSON, Darlene D., Administrative Judge:

Applicant submitted his Electronic Questionnaires for Investigations Processing (e-QIP), on June 15, 2012. (Government Exhibit 2). On July 1, 2014, the Department of Defense (DOD) pursuant to Executive Order 10865 (as amended), and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to the Applicant, which detailed the reasons why DOD could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant and recommended referral to an Administrative Judge to determine whether a clearance should be denied or revoked.

Applicant answered the SOR in writing on July 16, 2014, and requested a hearing before an Administrative Judge. The case was assigned to the undersigned Administrative Judge on September 30, 2014. A notice of hearing was issued on October 1, 2014, scheduling the hearing for December 3, 2014. The Government offered four exhibits, referred to as Government Exhibits 1 through 4, which were received without objection. The Applicant presented five exhibits, referred to as

Applicant's Exhibits A through E, which were admitted into evidence without objection. He also testified on his own behalf. The transcript of the hearing (Tr.) was received on December 15, 2014. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

## **FINDINGS OF FACT**

The following Findings of Fact are based on Applicant's Answer to the SOR testimony and the exhibits. The Applicant is 39 years of age and has a Doctorate Degree in Optics. He is employed as a Program Manager by a defense contractor and seeks to obtain a security clearance in connection with his employment in the defense industry.

Paragraph 1 (Guideline B - Foreign Influence). The Government alleges in this paragraph that the Applicant is ineligible for clearance because he has foreign contacts that could create the potential for foreign influence that could result in the compromise of classified information.

Applicant admitted all of the allegations set forth under this guideline, except 1(e), as the situation has changed. Applicant was born in Istanbul, Turkey in 1975. He grew up, attended school, and obtained his undergraduate degree there. He moved to the United States in 1996, at the age of 21, to pursue higher education, namely a graduate degree in physics. After attending several universities in the United States, he obtained his Ph.D in Optics, a Masters Degree in Physics, and a Masters Degree in Business. Applicant has worked for his current employer since May 2011, and has held a security clearance since June 2011.

In 1996 soon after moving to the United States, Applicant decided that he wanted to make it his permanent home. He became a permanent resident in June 2006, and a naturalized United States citizen in November 2009. At that time he was a dual citizen of both the United States and Turkey. Applicant testified that he has no plans of ever returning to live in Turkey permanently. (Tr. p. 41.) He has no feelings of affection toward Turkey, as in his opinion, he does not see it as a good place to live. He voluntarily renounced his Turkish citizenship on January 6, 2012. He surrendered his Turkish passport to his employer's security officer when he applied for a security clearance in June 2011.

Applicant is currently unmarried, but engaged. His fiance is a native-born American citizen, with whom he lives, and has lived since October 2014. (Applicant's Exhibit D.) They plan on getting married in April 2015. She is employed as an ESL teacher. In 2012, Applicant purchased a condominium in the United States, and has settled and firmly established his life in the United States. All of his financial interests, work, social life, and his future family (fiancé), are in the United States. He states that his current net worth in the United States, including his 401(K), currently totals

approximately \$700,000 to \$750,000. (Tr. p. 35.) He has no financial interests of any kind in Turkey.

Applicant's mother and father are citizens and residents of Turkey. He is not close to any of his family members in Turkey, except his mother. His parents divorced about ten years ago, and they do not talk to each other. (Tr. p. 43.) His father is a retired lawyer who was in private practice with no connections to the Turkish government. (Tr. p. 45.) Applicant's mother is a retired housewife, who at one time owned and ran a pre-school. She owns her own home and two condo units that she rents out. She also receives retirement income that she lives on. (Tr.p. 47.) Applicant contacts his father by telephone about once a month to see how he is doing. (Tr. p. 44.) He contacts his mother about once a week. The conversations are casual and related to her health and the family status. (Tr. p. 47.) Applicant's parents know that he works for a defense contractor, but nothing more.

Applicant has one younger brother who is a citizen of Turkey who currently resides in the United States under a student visa. He has a doctorate degree but is not happy with the area of discipline. He is currently studying for his Masters degree. Applicant has weekly contact with him to see how he is doing. (Tr. p. 58.) Applicant also has other extended family members and friends in Turkey who are citizens and residents there, however, gradually over the years he has become distant from them. He has contact with his cousins about once a year, when he comes to visit his mother. (Tr. p. 60.) He also has a friend, a past coworker, who is a U.S. citizen, who was born in Turkey. Applicant travels to Turkey once a year to visit his mother, and follows all DoD foreign travel requirements by reporting these trips to his security department. Applicant provides no financial support to any of his family or friends in Turkey.

At one time, the Applicant's mother was a second credit card holder on one of the Applicant's credit cards. The reason he added her to his credit card was in case of an emergency and for convenience. Since learning that this could pose a potential security problem, Applicant cancelled the credit card. He provides no financial support for his mother or anyone else who is a foreign national. Furthermore, by renouncing his Turkish citizenship he relinquished any potential inheritance he might have received from his parents. Applicant testified that he is willing to give up his financial windfall since he is in good financial shape in the United States. (Tr. pp. 48-49.) He further testified that he would never do anything to harm the interests of the United States, our military or our national secrets.

Letters of recommendation from a Vice President and a Chief Scientist from Applicant's employer indicates that Applicant is considered to be intelligent, ambitious, trustworthy, an individual with a strong work ethic and outstanding character. He has worked on various classified programs and has maintained high security standards at all times. He is said to demonstrate a high level of devotion to the U.S. seldom equaled by many of our own natural citizens. (Applicant's Exhibits B and C.)

A letter from the Applicant's fiancé states that Applicant is a loyal U.S. citizen who plans to stay in the United States. They plan to raise their children here. (Applicant's Exhibit D.)

I have considered the information provided by the Government on the Republic of Turkey. The current political conditions in Turkey are dangerous, and U.S. citizens are reminded to maintain a high level of vigilance, and to take appropriate steps to increase their security awareness. There have been violent attacks in Turkey, and the possibility of terrorist attacks against U.S. citizens and interests from both transnational and indigenous groups remain high. The Kurdistan People's Congress better known as the Kurdistan Worker's Party or PKK has been the most active terrorist organization in Turkey. An indigenous terrorist organization known as the Revolutionary People's Liberation Party/Front (DHKP/C) attacked the U.S. Embassy In Ankara using a suicide bomber on February 1, 2013. In July 2011, Turkish authorities arrested 15 terrorists claiming association with al-Qaida for gathering explosives materials in preparation for an attack on the U.S. Embassy in Ankara. In addition to terrorist activities, there have been instances of religious violence targeting individuals in Turkey working as religious missionaries or viewed as having proselytized for a non-Islamic religion. Threats and actual instances of crime have targeted Christian and Jewish individuals, groups, and places of worship in Turkey, including several high-profile murders of Christians over the last decade. (Government Exhibit 4.)

## **POLICIES**

Security clearance decisions are not made in a vacuum. Accordingly, the Department of Defense, in Enclosure 2 of the 1992 Directive sets forth policy factors and conditions that could raise or mitigate a security concern; which must be given binding consideration in making security clearance determinations. These factors should be followed in every case according to the pertinent criterion. However, the conditions are neither automatically determinative of the decision in any case, nor can they supersede the Administrative Judge's reliance on her own common sense. Because each security clearance case presents its own unique facts and circumstances, it cannot be assumed that these factors exhaust the realm of human experience, or apply equally in every case. Based on the Findings of Fact set forth above, the factors most applicable to the evaluation of this case are:

### Foreign Influence

6. *The Concern.* Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United

States citizens to obtain protected information and/or is associated with a risk of terrorism.

Conditions that could raise a security concern:

7. (a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risks of foreign exploitation, inducement, manipulation, pressure, or coercion;

7. (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information.

Conditions that could mitigate security concerns:

8. (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;

8. (b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

8. (c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

In addition, as set forth in Enclosure 2 of the Directive at pages 18-19, in evaluating the relevance of an individual's conduct, the Administrative Judge should consider the following general factors:

- a. The nature, extent and seriousness of the conduct;
- b. The circumstances surrounding the conduct, to include knowledgeable participation;
- c. The frequency and recency of the conduct;
- d. The individual's age and maturity at the time of the conduct;
- e. The extent to which participation is voluntary;

- f. The presence or absence of rehabilitation and other permanent behavior changes;
- g. The motivation for the conduct;
- h. The potential for pressure, coercion, exploitation or duress; and
- i. The likelihood of continuation or recurrence.

The eligibility criteria established in the DoD Directive identify personal characteristics and conduct which are reasonably related to the ultimate question, posed in Section 2 of Executive Order 10865, of whether it is “clearly consistent with the national interest” to grant an Applicant’s request for access to classified information.

The DoD Directive states, “The adjudicative process is an examination of a sufficient period of a person’s life to make an affirmative determination that the person is eligible for a security clearance. Eligibility for access to classified information is predicated upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole-person concept. Available, reliable information about the person, past and present, favorable and unfavorable should be considered in reaching a determination. The Administrative Judge can draw only those inferences or conclusions that have reasonable and logical basis in the evidence of record. The Judge cannot draw inferences or conclusions based on evidence which is speculative or conjectural in nature. Finally, as emphasized by President Eisenhower in Executive Order 10865, “Any determination under this order . . . shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the Applicant concerned.”

The Government must make out a case under Guideline B (foreign influence) that establishes doubt about a person's judgment, reliability and trustworthiness. While a rational connection, or nexus, must be shown between Applicant's situation and his ability to effectively safeguard classified information, with respect to sufficiency of proof of a rational connection, objective or direct evidence is not required.

Then, the Applicant must remove that doubt with substantial evidence in refutation, explanation, mitigation or extenuation, which demonstrates that the Applicant presently qualifies for a security clearance.

An individual who has foreign connections may be prone to provide information or make decisions that are harmful to the interests of the United States. Foreign influence can raise questions as to whether the Applicant can be counted upon to place the interests of the United States paramount to that of another nation. The Government must be able to place a high degree of confidence in a security clearance holder to abide by all security rules and regulations, at all times and in all places.

## CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal standards and factors, and having assessed the Applicant's credibility based on the record, this Administrative Judge concludes that the Government has established its case as to all allegations in the SOR.

Under Foreign Influence, Disqualifying Conditions 7.(a) *contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;* and 7.(b) *connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information* apply. However, Mitigating Conditions 8.(a) *the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;* 8.(b) *there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;* and 8.(c) *contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation* also apply.

It is acknowledged that the Applicant's parents and extended family are citizens of and reside in Turkey. The Applicant has limited contact with his father, and little or no contact with his extended family, except when he visits once a year to see his mother. Although he speaks to his mother about once a week, their conversation is simply about her well being. He provides no monetary support to his mother or any other foreign national.

It is noted that the current political situation in Turkey elevates the cause for concern in this case. In this case, the Applicant has everything to lose and nothing to gain by engaging in any improper foreign contact with Turkey. Everything that he has worked for and everything that he stands for will be destroyed. Applicant has resided in the United States for the past eighteen years. He has worked hard to achieve his education, his work, his house, his fiancé, and his social life and friends. His long standing ties and deep relationships are here. All of his financial assets are here. He is planning on getting married soon to a native American citizen, and they plan to establish their family in the United States. Applicant has adopted the American culture and its values. Under the particular facts of this case, the possibility of foreign influence does not exist, nor could it create the potential for conduct resulting in the compromise of

classified information. I find that the Applicant is not vulnerable to foreign influence. Accordingly, I find for the Applicant under Guideline B (Foreign Influence).

I have also considered the “whole-person concept” in evaluating the Applicant’s eligibility for access to classified information. Under the particular facts of this case, the totality of the conduct set forth under all of the guidelines viewed as a whole, support a whole-person assessment of good judgement, trustworthiness, reliability, candor, a willingness to comply with rules and regulations, or other characteristics indicating that the person may properly safeguard classified information. The Applicant is an intelligent, senior engineer with an excellent work record for the Defense Department. His favorable evidence, including the letters of recommendation from the Vice President and the Chief Scientist that know him well, in addition to his overall intelligence and integrity gleaned from his own testimony, all demonstrate his trustworthiness. He has presented sufficient evidence in mitigation to demonstrate that he is not a security risk.

Considering all the evidence, the Applicant has met the mitigating conditions of Guideline B of the adjudicative guidelines set forth in Enclosure 2 of the Directive. Accordingly, he has met his ultimate burden of persuasion under Guideline B.

### **FORMAL FINDINGS**

Formal Findings For or Against the Applicant on the allegations in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1: For the Applicant.

- Subpara. 1.a.: For the Applicant
- Subpara. 1.b.: For the Applicant
- Subpara. 1.c.: For the Applicant
- Subpara. 1.d.: For the Applicant
- Subpara. 1.e.: For the Applicant

### **DECISION**

In light of the circumstances presented by the record in this case, it is clearly consistent with the national interests to grant or continue a security clearance for the Applicant.

Darlene Lokey Anderson  
Administrative Judge



